

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IVAN N. EVANS,

Plaintiff,

-against-

YONKERS POLICE DEPARTMENT; P.O.
MARC CARO; P.O. MATTHEW BERNI,

Defendants.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 7/10/2025

25-CV-3965 (NSR)

ORDER OF SERVICE

NELSON S. ROMÁN, United States District Judge:

Plaintiff, who is appearing *pro se*, brings this action under 42 U.S.C. § 1983, alleging that Defendants used excessive force during a March 28, 2025 arrest in Yonkers, New York. Plaintiff names as Defendants the Yonkers Police Department (“YPD”), and YPD Officers Marc Caro and Matthew Berni.

By order dated June 26, 2025, the Court granted Plaintiff’s request to proceed *in forma pauperis* (“IFP”), that is, without prepayment of fees.¹ As set forth below, the Court directs services on the Yonkers Police Department, Officer Caro, and Officer Berni.

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service.² *Walker v. Schult*, 717 F.3d 119, 123 n.6

¹ At the time Plaintiff filed this action, he was detained at Westchester County Jail. On June 24, 2025, the court received Plaintiff’s change of address, indicating that he was released from custody. Although Plaintiff has been released, Prison Litigation Reform Act restrictions still may apply because Plaintiff was a prisoner, as defined in 28 U.S.C. § 1915(h), at the time he filed his complaint. *See Gibson v. City Municipality of New York*, 692 F.3d 198, 201 (2d Cir. 2012) (per curiam).

² Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have effected service until the Court reviewed the complaint and ordered that any

(2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP).

To allow Plaintiff to effect service on Defendants through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for Defendants. The Clerk of Court is further instructed to issue summonses and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon Defendants.

If the complaint is not served within 90 days after the date summonses are issued, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service).

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

CONCLUSION

The Court directs the Clerk of Court to issue a summons for each defendant, complete the USM-285 form with the address for each defendant, and deliver all documents necessary to effect service to the U.S. Marshals Service.

Plaintiff may receive court documents by email by completing the form, [Consent to Electronic Service](#).³

summonses be issued. The Court therefore extends the time to serve until 90 days after the date any summonses issue.

³ If Plaintiff consents to receive documents by email, Plaintiff will no longer receive court documents by regular mail.

The Clerk of Court is directed to mail an information package to Plaintiff.

SO ORDERED.

Dated: July 10, 2025
White Plains, New York

A handwritten signature in dark ink, appearing to read 'Nelson S. Román', is written over a horizontal line.

NELSON S. ROMÁN
United States District Judge

SERVICE ADDRESS FOR EACH DEFENDANT

1. Yonkers Police Department
104 South Broadway
Yonkers, NY 10701
2. Officer Marc Cano, Shield #277
Yonkers Police Department
104 South Broadway
Yonkers, NY 10701
3. Officer Matthew Berni, Shield #142
Yonkers Police Department
104 South Broadway
Yonkers, NY 10701